

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT CINCINNATI**

UNITED STATES OF AMERICA,

Plaintiff, : Case No. 1:21-cr-066
 Also Civil Case No. 1:23-cv-557

- vs -

District Judge Matthew W. McFarland
Magistrate Judge Michael R. Merz

FRED ALDRIDGE,

Defendant. :

REPORT AND RECOMMENDATIONS

This is an action under 28 U.S.C. § 2255 initiated *pro se* by Defendant Fred Aldridge by filing a Motion to Vacate (ECF No. 43). Upon initial referral from District Judge McFarland, the Magistrate Judge noted the Motion had been filed August 28, 2023, but was improper as to form because it was not signed (ECF No. 46). Defendant was ordered to file an amended motion properly signed by November 1, 2023. *Id.*

Defendant has failed to comply with that Order. The requirement for a signature is a material requirement because the Rules Governing § 2255 Proceedings require that averments in a § 2255 motion be made under penalty of perjury. Without a defendant's taking that level of responsibility for allegations about a closed case and the attorney who represented him, it is inappropriate to compel an answer from the United States.

Because Defendant has failed to comply with the order for signature, the Magistrate Judge respectfully recommends the Motion to Vacate be denied without prejudice for lack of prosecution.

November 14, 2023.

NOTICE REGARDING OBJECTIONS

Pursuant to Fed. R. Civ. P. 72(b), any party may serve and file specific, written objections to the proposed findings and recommendations within fourteen days after being served with this Report and Recommendations. Because this document is being served by mail, three days are added under Fed.R.Civ.P. 6, but service is complete when the document is mailed, not when it is received. Such objections shall specify the portions of the Report objected to and shall be accompanied by a memorandum of law in support of the objections. A party may respond to another party's objections within fourteen days after being served with a copy thereof. Failure to make objections in accordance with this procedure may forfeit rights on appeal. #

s/ Michael R. Merz
United States Magistrate Judge